IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 9158 of 2005

For Approval and Signature:

HONOURABLE MR.JUSTICE AKIL KURESHI

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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NANI HIRVANI DUDH UTPADAK SAHAKARI MANDALI LTD - Petitioner(s)
Versus
REGISTRAR OF CO-OPERATIVE SOCIEITES & 3 - Respondent(s)

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Appearance :

MR DEEPAK R DAVE WITH MR KETAN I ACHARYA for Petitioner(s) : 1,
MR SIRAJ GORI, AGP for Respondent(s) : 1, 2
MR MEHUL SHARAD SHAH for Respondent(s) : 3,

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CORAM : HONOURABLE MR.JUSTICE AKIL KURESHI

Date : 04/07/2006

ORAL JUDGMENT

1. Learned advocate Shri Dave appearing with Shri K.I.Acharya for the petitioner seeks permission

to delete respondent No.4. Permission granted. Respondent No.4 stands deleted.

2. Rule. Learned AGP Shri Gori waives service of notice of rule on behalf of respondent Nos.1 & 2 and learned advocate Shri Shah waives service of notice of rule on behalf of respondent No.3. At the joint request of the learned advocates appearing for the parties, the petition is taken up for final disposal today.

3. The grievance of the petitioner is that the District Registrar has not taken action under section 83 of the Gujarat Cooperative Societies Act directing respondent No.3 herein to produce certain documents and records of the petitioner-society. Respondent No.3 was the Secretary of the society earlier. Though the petitioner society had made an approach, the same was turned by the District Registrar.

4. Respondent No.3 has sought to oppose the petition on the ground that the present Secretary of the society has no authority to file the petition. It is contended that the resolution was passed by the society on 17th March, 2004 indicating that respondent No.3 has paid up all outstanding dues and that no further issues are pending. It was pointed that the society had at some stage decided to take criminal action against respondent No.3 for not accounting for the records of the society. Learned AGP Shri Gori appearing for the official respondents pointed out that the authorities

have initiated criminal proceedings against respondent No.3 on 10.3.2004.

5. Learned advocate for the petitioner submitted that subsequent to the resolution dated 17.3.2004, a resolution was passed by the society on 19.6.2004 which would show that the earlier resolution had lost its effect.

6. Considering the disputed questions, I find it appropriate that the petitioner should make a fresh application to the Registrar. If such application is made within a period of two weeks from today, the Registrar shall decide the same whether powers under section 83 of the Gujarat Cooperative Societies Act are required to be exercised. Respondent No.3 shall be permitted to represent his case before any final order is passed in this regard. This will ensure that the latest stand of the petitioner-society and the response of respondent No.3 are available before the Registrar and a just decision can be taken as may be found necessary on the basis of the material that may be brought on record.

7. In view of the aforesaid directions, the petition is disposed of at this stage. Rule is made absolute to the above extent with no order as to costs.

(Akil Kureshi, J.)

(vjn)